

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 14**

**Baker Petrolite LLC**

**Employer**

**and**

**Case 14-RC-222169**

**International Association of Bridge, Structural,  
Ornamental & Reinforcing Iron Workers Local 584<sup>1</sup>**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

The Petitioner seeks to represent a unit of all full-time and regular part-time production and maintenance employees, including lab technicians. The Employer agrees that the petitioned-for unit is appropriate. While the Employer also contended in its Statement of Position that employees in 7 classifications should be included in the unit, it failed to specify in the Statement of Position the classifications that should be included. The parties also disagreed over the unit placement of certain individuals in the classification of Mechanic Chemist III. Because I conclude, in agreement with the parties, that the unit sought by the Petitioner is appropriate for collective bargaining and that a question of representation exists under Section 9(c) of the Act, I am directing an election in this matter. Moreover, because the Employer's contentions concern whether certain individuals should be included in the unit, and the Petitioner's contentions concern whether certain Mechanic Chemist IIIs should be excluded from the unit, which involve their eligibility to vote, I further conclude that these contentions need not be litigated or resolved before the election is conducted because the resolution of these issues would not significantly change the size or character of the unit.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>2</sup>

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<sup>1</sup> The names of the parties appear as amended at the hearing in Board Exhibit 2.

<sup>2</sup> At hearing, the parties stipulated that the Employer is a Delaware limited liability corporation engaged in the manufacture of specialty chemicals for the oil field industry with a place of business located at 9100 W. 21<sup>st</sup> Street, Sand Springs, Oklahoma and that during the past year, a representative period, the Employer, in the course and conduct of its business operations, sold and shipped products, goods, and materials valued in excess of \$50,000 to points located directly outside the State of Oklahoma.

3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

Pursuant to Section 102.63 (b)(1) of the Board's Rules and Regulations, prior to the hearing in this matter, the Employer submitted a Statement of Position. The Employer's Statement of Position reveals that the Employer does not contest the appropriateness of the unit sought by the Petitioner. However, a careful review of the Employer's Statement of Position reveals the Employer is disputing the failure to include certain individuals in 7 unspecified classifications in the unit, and therefore is contesting the eligibility of certain individuals to vote. However, as noted above, the Employer's Statement of Position fails to specify the classifications that must be added to the proposed unit.

Further, because the Employer's Statement of Position, and the Petitioner's contentions regarding certain mechanic chemists, raise eligibility issues affecting less than 20 percent of the unit, I conclude that the parties' contentions do not significantly change the size or character of the unit and thus are not relevant to a question concerning representation. Therefore, I instructed the hearing officer to not allow the parties to present evidence, as I concluded it was unnecessary to resolve the eligibility issues before the election is conducted.

Therefore, consistent with Section 102.64 of the Board's Rules and Regulations, I direct an election in this matter, and I further order that the individuals in the 7 classifications and the three Mechanic Chemist IIIs may vote in the election but their ballots shall be challenged since their eligibility was not resolved. The eligibility of these individuals will be resolved, if necessary, following the election.

In view of the foregoing and the record as a whole, I find the following employees constitute an appropriate unit for collective bargaining:

All full-time and regular part-time production and maintenance employees, including lab technicians employed by the Employer at its facility located at 9100 W. 21<sup>st</sup> Street, Sand Springs, Oklahoma 74063, but EXCLUDING all other employees, professional employees, office clerical employees, guards, and supervisors as defined by the Act.

## **DIRECTION OF ELECTION**

### **A. Election Details**

An election by secret ballot will be conducted by the undersigned among the employees in the unit found appropriate on the date and at the time and place set forth in the Notice of Election issued with this Decision.

### **B. Voting Eligibility**

Eligible to vote are those in the unit who were employed during the payroll period ending **June 17, 2018**, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off.

Employees engaged in an economic strike, who have retained their status as strikers and who have not been permanently replaced, are also eligible to vote. In addition, in an economic strike that commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Also eligible to vote using the Board's challenged ballot procedure are those individuals employed in the classifications whose eligibility remains unresolved as specified above and in the Notice of Election.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

### **C. Voter List**

As required by Section 102.67(l) of the Board's Rules and Regulations, the Employer must provide the Regional Director and parties named in this decision a list of the full names, work locations, shifts, job classifications, and contact information (including home addresses, available personal email addresses, and available home and personal cell telephone numbers) of all eligible voters.

To be timely filed and served, the list must be *received* by the regional director and the parties by **July 2, 2018**. The list must be accompanied by a certificate of service showing service on all parties. **The region will no longer serve the voter list.**

Unless the Employer certifies that it does not possess the capacity to produce the list in the required form, the list must be provided in a table in a Microsoft Word file (.doc or docx) or a file that is compatible with Microsoft Word (.doc or docx). The first column of the list must begin with each employee's last name and the list must be alphabetized (overall or by department) by last name. Because the list will be used during the election, the font size of the list must be the equivalent of Times New Roman 10 or larger. That font does not need to be used but the font must be that size or larger. A sample, optional form for the list is provided on the NLRB website at [www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015](http://www.nlr.gov/what-we-do/conduct-elections/representation-case-rules-effective-april-14-2015).

When feasible, the list shall be filed electronically with the Region and served electronically on the other parties named in this decision. The list may be electronically filed with the Region by using the E-filing system on the Agency's website at [www.nlr.gov](http://www.nlr.gov). Once the website is accessed, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions.

Failure to comply with the above requirements will be grounds for setting aside the election whenever proper and timely objections are filed. However, the Employer may not object to the failure to file or serve the list within the specified time or in the proper format if it is responsible for the failure.

No party shall use the voter list for purposes other than the representation proceeding, Board proceedings arising from it, and related matters.

#### **D. Posting of Notices of Election**

Pursuant to Section 102.67(k) of the Board's Rules, the Employer must post copies of the Notice of Election accompanying this Decision in conspicuous places, including all places where notices to employees in the unit found appropriate are customarily posted. The Notice must be posted so all pages of the Notice are simultaneously visible. In addition, if the Employer customarily communicates electronically with some or all of the employees in the unit found appropriate, the Employer must also distribute the Notice of Election electronically to those employees. The Employer must post copies of the Notice at least 3 full working days prior to 12:01 a.m. of the day of the election and copies must remain posted until the end of the election. For purposes of posting, working day means an entire 24-hour period excluding Saturdays, Sundays, and holidays. However, a party shall be estopped from objecting to the nonposting of notices if it is responsible for the nonposting, and likewise shall be estopped from objecting to

the nondistribution of notices if it is responsible for the nondistribution. Failure to follow the posting requirements set forth above will be grounds for setting aside the election if proper and timely objections are filed.

### **RIGHT TO REQUEST REVIEW**

Pursuant to Section 102.67 of the Board's Rules and Regulations, a request for review may be filed with the Board at any time following the issuance of this Decision until 14 days after a final disposition of the proceeding by the Regional Director. Accordingly, a party is not precluded from filing a request for review of this decision after the election on the grounds that it did not file a request for review of this Decision prior to the election. The request for review must conform to the requirements of Section 102.67 of the Board's Rules and Regulations.

A request for review may be E-Filed through the Agency's website but may not be filed by facsimile. To E-File the request for review, go to [www.nlr.gov](http://www.nlr.gov), select E-File Documents, enter the NLRB Case Number, and follow the detailed instructions. If not E-Filed, the request for review should be addressed to the Executive Secretary, National Labor Relations Board, 1015 Half Street SE, Washington, DC 20570-0001. A party filing a request for review must serve a copy of the request on the other parties and file a copy with the Regional Director. A certificate of service must be filed with the Board together with the request for review.

Neither the filing of a request for review nor the Board's granting a request for review will stay the election in this matter unless specifically ordered by the Board.

Dated: June 28, 2018

*/s/ Leonard J. Perez*

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Leonard J. Perez, Regional Director  
National Labor Relations Board, Region 14  
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